

# Disability Living Allowance claiming the higher rate mobility component for children with learning disabilities and autism spectrum disorders

Information for families in England, Northern Ireland, Scotland and Wales



## Introduction

Disability Living Allowance (DLA) is the main benefit for disabled children and is there to help meet the extra costs of being disabled. A child with any sort of illness or disability, even if they have no diagnosis, may qualify.

The benefit is paid in two main parts, called 'components':

- the 'care component' – designed to help with the extra costs of having care needs, and
- the 'mobility component' – designed to help with the extra costs of getting around.

There are two rates of the mobility component. The higher rate, which can be paid from the age of three years, and the lower rate, which can be paid from the age of five years.

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## DLA higher rate mobility component

Most children who get the higher rate of the mobility component qualify on the basis that physical problems severely restrict their ability to walk. However, even if your child has no physical problems with walking they might still qualify for the higher rate of mobility if their behaviour is very difficult to deal with.

There are two ways that a child with a learning disability or autism spectrum disorder may qualify for higher rate mobility component. If they can be classed as:

- having ‘a severe mental impairment and behavioural problems’, or
- being ‘virtually unable to walk’.

### **Terminology**

Don't be put off by these descriptions. Some of the words in the rules, such as ‘severe mental impairment’ have a specific meaning and we explain these throughout the guide. See below.

## **Severe mental impairment and behavioural problems**

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Some children qualify for the higher rate of the mobility component of Disability Living Allowance (DLA) because they can be classed as having a ‘severe mental impairment’ and exhibit behavioural problems. To qualify under this rule, it is important to show that your child needs a lot of watching over whether they are indoors, in the car, walking outdoors or playing in the garden. Their ability to walk is not important under these rules – it is all about their behaviour.

To be entitled to the higher rate mobility component on this basis your child must meet all of the five tests listed below:

### **Test 1**

Your child must be entitled to the higher rate care component of DLA. This includes where it is not being paid because your child is in hospital. If your child does not qualify for the higher rate care component then they may still be able to get the higher rate mobility component under the ‘virtually unable to walk’ rules. See page 4 for further information.

### **Test 2**

Your child must suffer from ‘an incomplete physical development of the brain or a state of arrested development which results in severe impairment of intelligence and social functioning’.

‘Incomplete physical development of the brain’ is where a person’s brain has not grown or developed properly, and this can be seen or assessed.

‘Arrested development’ can mean any sort of emotional or functional delay or lack of development, whether or not the brain is fully developed, as long as there is a physical cause. For example, a genetic or chromosome disorder can be a physical cause.

Disability Living Allowance case law has accepted that because autism is a disorder of brain development, children with a diagnosis of autism or autism spectrum disorder will satisfy the condition of ‘arrested development’ or ‘incomplete physical development of the brain’. Global development delay could also be accepted as being ‘arrested development or incomplete physical development of the brain’.

'Severe impairment of intelligence' is generally taken to be an IQ of 55 or less. However, this is not the only measure of impaired intelligence. If a child's IQ is above 55, or they have not had an IQ test, the decision-maker at the Department for Work and Pensions (DWP) must consider other evidence. For example, children who have autism spectrum disorders may do well in intelligence tests but may find it very difficult to use their intelligence in everyday situations such as using the road safely. So even if a child has an IQ of more than 55 it may still be possible to show that they have a severe impairment of intelligence if you can establish that they have difficulty applying their intelligence in the real world.

'Severe impairment of social functioning' means when a child has difficulty in social situations. A child's ability and interest in playing with other children can show 'impairment of social functioning', as well as how they might behave in other social situations. Many children who have autism will demonstrate this.

### **Test 3**

Your child must 'exhibit disruptive behaviour' which 'is extreme' – the sorts of behaviour that may count includes: running into the road, making loud noises, hitting out at people, throwing or breaking things, getting very upset, refusing to move.

The word 'extreme' in the DLA rules means 'out of the ordinary', so that other behaviour that could be dangerous may also be taken into account, such as touching hot or sharp objects, putting harmful objects in their mouth, scratching or biting themselves repeatedly, banging their head or harming themselves in other ways.

### **Test 4**

Your child must regularly require another person 'to intervene and physically restrain the child to prevent them causing physical injury to themselves or another, or damage to property.'

'Physical restraint' means physically stopping your child from doing something that would cause injury to themselves or others or damage to property. Physical restraint does not necessarily have to involve the use of force. Ultimately, the level of restraint required to meet this test can vary depending on the individual child. For example taking a firm grip of a young child's arm may be sufficient restraint to avoid any risk of danger, but a child who is older and stronger might require a greater degree of restraint.

The need for restraint must be 'regularly required'. In deciding whether this test is met, a decision maker must look not only the need for restraint outside but also indoors.

### **Test 5**

Your child's behaviour must be 'so unpredictable that your child requires another person to be present and watching over them whenever they are awake.'

To demonstrate this you would need to show that your child needs to be watched over whenever they are awake to prevent them from causing harm to themselves or to other people or any damage to objects, for example, furniture, clothing, and household appliances. You have to show that your child's actions are unpredictable. If they only display this type of behaviour in certain situations, for example, in a crowded shop, then it is likely to be difficult to pass this part of the test.

If your child can be left alone in a room with the door shut, you may have difficulty showing you meet this test unless you can also show that you check on them frequently or that when you are unable to watch them you are anxious about what might be happening. For example, you might use 'sensor pads' or other monitoring devices. Call our freephone helpline for more advice if this applies to you.

Before considering an award, the DWP would normally require a specialist's opinion.

## **‘Virtually unable to walk’**

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Some children who don't qualify for the higher rate mobility component of DLA on the grounds of 'severe mental impairment and behavioural problems' may qualify on the basis that they are 'virtually unable to walk'.

The 'virtually unable to walk' test looks at the child's ability to walk outside and takes into account the speed and manner of walking and the distance covered. It also looks at any 'interruptions' in their ability to make progress on foot. The 'interruptions' must be part of a physical disability or have a physical cause, rather than being under conscious control.

DLA case law has accepted that autism spectrum disorders are physical disorders of brain development, and that some children with learning disabilities may have 'interrupted' walking because of a physical cause such as brain damage, or a chromosome or genetic disorder (for example, Down syndrome).

If your child can put one foot in front of the other but often just stops walking and is unable to continue, you need to be able to show that:

- this type of behaviour is the result of a known physical cause, and
- the interruptions in walking are frequent enough that your child's walking is so limited they can be considered to be 'virtually unable to walk'.

For example, children with autism spectrum disorders often have 'refusal episodes', where they refuse to either leave the house or go where parents want them to, or will refuse to go any further while they are out. These refusals are not down to naughtiness or wilfulness, and occur because of the extreme rigidity of thinking associated with autism and the inability to deal with unexpected events.

These refusal episodes can be seen as a 'temporary paralysis of will', which will count towards a 'virtual inability to walk'. If it can be shown that these episodes are frequent, sustained and not easily overcome by coaxing, then your child may be considered virtually unable to walk and an award of the higher rate mobility component made.

Although there is no set distance in law, a child may be considered as being 'virtually unable to walk' if they cannot walk more than 50 metres.

### **Virtually unable to walk – describing your child's walking difficulties**

To help you describe your child's walking difficulties, you could carry out a short outdoor walking test in a safe place with help from another person. For each test, you should:

- describe the place where you carried out the test
- mark a starting point and note the time
- let your child go; don't actively intervene to help them walk apart from a hand on the shoulder or words to help them start in the right direction
- write down a description of exactly what happens. Did they move at all? If yes, how do they walk or run? What size steps? How do they lift their legs? What is the speed of walking? Do they change speed or direction? How is their balance? Do they react to distractions?
- note each stop or interruption to their walking. Note the time, mark the place and measure the distance from the start point to the last stopping point
- describe exactly what happens. Why do you think they have stopped? Note the time they start to move again. What made them move on? Or why do you think they moved?
- at the end of the test, mark the place they have reached. How far in a straight line is it from where they started?

If the child's walking ability is also limited by severe discomfort, finish the test at that point having marked the time and distance. Describe the severe discomfort. This could be pain, breathing problems, distress and panic. Make a note of any outward and visible signs of their discomfort.

### **Virtually unable to walk – providing evidence**

It will be helpful to provide evidence from a medical practitioner or other sources to show:

- that the learning disabilities have a physical cause
- that all the behavioural problems that interrupt outdoor walking stem from a physical cause
- that the child is not able to deliberately and self-consciously choose whether to walk
- that the child's walking distance outdoors is very limited. It is helpful if a professional is able to state the distance the child can usually walk without difficulty and how often the child's walking is interrupted.

Reward yourself when the form is finished. Completing the DLA form can be both time consuming, and stressful, but it will be worth it in the end.

## **Claiming and getting a decision**

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If you think your child may qualify for the higher rate mobility component, get expert advice from your local citizens advice bureau (CAB), disability advice centre or welfare rights unit. They may be able to help you complete the claim form or help you to challenge a decision made by the DWP.

The issues discussed here may not always be considered by the DWP in making a DLA decision and, as a result, some children with autism spectrum disorders or learning disabilities may be wrongly awarded the lower rate instead of the higher rate mobility component. If your child is awarded the lower rate of the mobility component but you think they meet the tests outlined in this guide you can challenge the decision that has been made on their claim. There are two possible stages when challenging a decision:

- firstly you must ask for the decision to be looked at again, this is known as a reconsideration request
- then, you can lodge an appeal if you are not happy with the outcome of the reconsidered decision.

The only exception to this is if you live in Northern Ireland. Please call our freephone helpline for further advice if you are in Northern Ireland.

The time limit to request a reconsideration is one month from the date of the decision, so you should not delay in seeking advice and taking action.

### **Warning**

If you have an existing award of DLA and you ask for it to be looked at again, there is a risk that your award could go down rather than up. Because of this, it is always best to get help from a citizens advice bureau (CAB) or local welfare rights service.

If you need any further help or are having problems finding local sources of specialist help, please contact our freephone helpline.

## Other benefits

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An award of the higher rate mobility component gives automatic entitlement to the 'Blue Badge' which helps with parking, and access to the Motability scheme which helps you lease a car. It may also lead to an exemption from road tax.

## Lower rate of mobility component

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If you think your child does not qualify for the higher rate mobility component having read the above information, they may qualify for the lower rate of the mobility component instead. For more information about the lower rate, see our guide *Claiming Disability Living Allowance for children*, available by calling our freephone helpline on 0808 808 3555 or from our website. It also gives information about the care component of DLA and how DLA can help you qualify for other benefits, such as Carer's Allowance.

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### Get in contact with us

209–211 City Road, London EC1V 1JN

 020 7608 8700

 [info@cafamily.org.uk](mailto:info@cafamily.org.uk)

 [www.cafamily.org.uk](http://www.cafamily.org.uk)

 [www.facebook.com/contactafamily](https://www.facebook.com/contactafamily)

 [www.twitter.com/contactafamily](https://www.twitter.com/contactafamily)

 [www.youtube.com/cafamily](https://www.youtube.com/cafamily)

### Free helpline for parents and families

Access to over 200 languages

 **0808 808 3555**

Open Mon–Fri, 9.30am–5pm

 [helpline@cafamily.org.uk](mailto:helpline@cafamily.org.uk)

### Free family linking service

 [www.MakingContact.org](http://www.MakingContact.org)



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